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December 29, 2004

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WC 05-21

Federal Communications Commission
Wireline Competition Bureau - CPD214 Appis.
P.O. Box 358145
Pittsburgh, PA 15251-5145

Re: In the Matter of Pac-West Telecomm, Inc., Transferor, and U.S. TelePacific Corp. Transferee, Application for authority pursuant to Section 214 of the Communications Act of 1934, as amended, for the transfer of assets of an authorized U.S. international and domestic common carrier

Dear Sir/Madame:

Enclosed for filing, on behalf of Pac-West Telecomm, Inc. and U.S. TelePacific Corp., please find an original and six copies of the above-identified combined application. This application requests the transfer of a portion of the customer base and related assets of Pac-West to TelePacific. This application is being filed concurrently with the International Bureau.

Also enclosed is a completed Fee Remittance Form 159 and a check in the amount of \$895.00, payable to the Federal Communications Commission. After filing this application, please return a date-stamped copy to me in the enclosed self-addressed stamped envelope. Thank you very much.

Very truly yours,



John L. Clark

Enclosures

0615/025/X60532.v1

RETURN COPY

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the matter of

Pac-West Telecomm, Inc.
Transferor

and

U.S. TelePacific Corp.
Transferee

File No. ITC-T/C-2004_____

WC Docket No. 04_____

Application for authority pursuant to Section 214 of the Communications Act of 1934, as amended, for the transfer of assets of an authorized U.S. international and domestic common carrier.

APPLICATION

Pac-West TeleComm, Inc. ("Pac-West") and U.S. TelePacific Corp.

("TelePacific"), collectively "Joint Applicants," hereby request, pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and Sections 63.04 and 63.24(e) of the Federal Communications Commission ("Commission") Rules, 47 C.F.R. § 63.04 and § 63.24(e), authority for the transfer by Pac-West of certain customer accounts and related assets to TelePacific.

I. SUMMARY OF TRANSACTION

Pursuant to a purchase agreement entered into on December 17, 2004, between the Joint Applicants, Pac-West has agreed to sell to TelePacific Pac-West's small and medium sized enterprise customer base and certain other related assets, and TelePacific has agreed to

assume certain liabilities related to the acquired assets and pay cash consideration of \$27,000,000, subject to certain potential adjustments, plus certain other consideration.

The customer base that is the subject of the transfer includes a substantial portion of Pac-West's small and medium-size enterprise customer base with over 70,000 equivalent lines of service in California and Nevada. Under the terms of the agreement, TelePacific will begin providing service to these customers upon closing, which will take place once all necessary regulatory approvals are obtained. All affected customers will be informed of the transaction and the transaction will not result in any change to rates, terms, or conditions of service. The transaction will enable these customers to receive continued service from a well-funded carrier that specializes in providing high quality, facilities-based local exchange and interexchange service to business subscribers.

In exchange for the transferred assets, Pac-West will receive cash consideration that that will enhance its ability to carry out its core business strategy of providing alternative network capabilities to other communications service providers.

II. REQUEST FOR STREAMLINED PROCESSING

This application is eligible for streamlined processing under Sections 63.03 and 63.12 of the Commission's Rules, 47 CFR § 63.03 and § 63.12. With respect to the domestic authority, the application is eligible for streamlining because, immediately following the transaction: (1) the Joint Applicants and their affiliates (as defined in Section 3(1) of the Communications Act, "Affiliates") combined, will hold less than a ten percent (10%) share of the interstate interexchange market; (2) to the extent that the Joint Applicants or their Affiliates provide U.S. local exchange services or exchange access services, those services will be provided only in geographic areas served by a dominant local exchange carrier that is not a party

to the transaction; and (3) none of the Joint Applicants or their Affiliates is dominant with respect to any U.S. domestic telecommunications service. With respect to the international authority, the application is eligible for streamlined processing because none of the exceptions to streamlined filing specified by paragraph (c) of Section 63.12 applies.

III. STATEMENT OF PUBLIC INTEREST

The subject transaction is clearly in furtherance of the public interest. TelePacific is an established and well-respected facilities-based telecommunications service provider and enjoys a demonstrably high demand for its services. The customers subject to the transfer have profiles that are very similar to TelePacific's existing customers, which will enable TelePacific to immediately take over service on a basis that is fully transparent to them. The acquisition of these customers will enable TelePacific to enjoy increased efficiencies and economies of scale, thereby enhancing TelePacific's competitive and financial positions, which ultimately should inure to the benefit of all customers in the form of lower prices, increased service options, and enhanced service capabilities.

The transaction is expected to drive significant financial improvements for Pac-West, increasing cash flow by reducing the expenses associated with employing an enterprise direct sales force and support organization, and expanding opportunities for Pac-West to carry out its core business strategy of providing alternative network serving arrangements for third-party communications service providers. Through its increased ability to focus on this aspect of its operations, Pac-West expects to be able to expand and enhance its already-extensive network, which will enable it continue to forge new customer relationships and assist all of its customers in delivering high quality services to their own end-user customers on a basis that is more affordable, more efficient, and at a higher level of quality than is available from incumbent

carriers.

For these reasons, Joint Applicants respectfully submit that this application is in the public interest and should be granted without delay.

IV. SECTION 63.24(e) INFORMATION

Pursuant Section 63.24(e) of the Commission's Rules, Joint Applicants submit the following information requested in Section 63.18 (a)-(d) and (h)-(p) in support of this application. (In accordance with Section 63.24(e)(2), items (h)-(p) pertain to the transferee, only.)

(a) Names, Addresses, and Telephone Numbers of Applicants

(1) Transferor

Pac-West Telecomm, Inc.
1776 West March Lane, Suite 250
Stockton, California 95207
Tel: 209-926-3300

(2) Transferee

U.S. TelePacific Corp.
515 S. Flower Street, 47th Floor
Los Angeles, California 90071-2201
Tel: 231-213-3000

(b) Jurisdiction of Organization

Pac-West is a corporation formed under the laws of the State of California.

TelePacific is a corporation formed under the laws of the State of California.

(c) Contact Information

All correspondence and other communications concerning this application should be directed to:

John L. Clark
Goodin, MacBride, Squeri
Ritchie & Day LLP
505 Sansome Street, 9th Floor
San Francisco, California 94111
Tel: 415-765-8443
Fax: 415-398-4321
E-mail: jlclark@gmssr.com

with copies to:

Lynne Martinez
Pac-West Telecomm, Inc.
1776 West March Lane, Suite 250
Stockton, California 95207
Tel: 209-926-4339
Fax: 209-926-4585
E-mail: lmartinez@pacwest.com

and

Jane Delahanty
U.S. TelePacific Corp.
515 S. Flower Street, 47th Floor
Los Angeles, California 90071-2201
Tel: 213-213-3288
Fax: 213-213-3101
E-mail: jdelahanty@telepacific.com

(d) International Authorizations

Pac-West and TelePacific each holds domestic and international Section 214 authority.

(h) Ownership

The name, address, citizenship, and principal business of each holder, directly or indirectly, of 10% or more equity interest of TelePacific are as follows:

Name and Address	Citizenship	Principal Business	Percentage Ownership
U.S. TelePacific Holdings, Inc. 515 S. Flower Street, 47 th Floor Los Angeles, California 90071-2201	United States	Telecommunications	100%
Investcorp S.A. 6 rue Adolph Fischer L-1520 Luxembourg	Luxembourg	Investment	39.5%

(i) As evidenced by its signature to this application, below, TelePacific certifies under penalty of perjury under the laws of the United States that it is not affiliated with a foreign carrier.

(j) As evidenced by its signature to this application, below, TelePacific certifies under penalty of perjury under the laws of the United States that it does not seek to provide international telecommunications services to any destination country where :

- (1) TelePacific (or an affiliate) is a foreign carrier in that country; or
- (2) TelePacific (or an affiliate) controls a foreign carrier in that country; or
- (3) any entity that owns more than 25 percent of TelePacific, or that controls TelePacific, controls a foreign carrier in that country; or
- (4) two or more carriers (or parties that control foreign carriers) own, in the aggregate, more than 25% of TelePacific and are parties to, or the beneficiaries of, a contractual relationship affecting the provision of marketing or international basic telecommunications services in the United States.

(k) Not applicable.

(l) Not applicable.

(m) Not applicable.

(n) As evidenced by its signature to this application, below, TelePacific certifies under penalty of perjury under the laws of the United States that it has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

(o) As evidenced by its signature to this application, below, TelePacific certifies under penalty of perjury under the laws of the United States that it is not subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998. *See* 21 U.S.C. § 853a. *See also* 47 C.F.R. §§ 1.2001-1.2003.

(p) Joint Applicants respectfully submit that this application is eligible for streamlined processing pursuant to Section 63.12(a)-(b) of the Commission's Rules, 47 C.F.R. § 63.12(a)-(b). In particular, Section 63.12(c)(1) is inapplicable because none of the Joint Applicants is affiliated with any foreign telecommunications carriers except for foreign telecommunications carriers that qualify for a presumption of non-dominance pursuant to Section 63.10(a)(3) of the Commission's Rules, and none of the scenarios outlined in Section 63.12(c)(2)-(4) of the Commission's Rules applies.

V. SECTION 63.04 INFORMATION

Information addressing the requirements set forth in Commission Rule 63.04(a)(6)-(12) is set forth in Attachment A.

CONCLUSION

As demonstrated in this application, Joint Applicants submit that the public interest, convenience, and necessity would be furthered by a grant of this application.

Respectfully submitted this 28th day of December 2004 at San Francisco, California.

GOODIN, MACBRIDE, SQUERI,
RITCHIE & DAY, LLP

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By 

John L. Clark

Attorneys for Joint Applicants

LIST OF ATTACHMENTS

Certification of Transferor

Certification of Transferee

Attachment A - Section 63.04 Information

CERTIFICATION OF TRANSFEROR

I hereby certify that the statements in the foregoing application on behalf of Pac-West Telecomm, Inc. for authority to transfer control over specified assets to U.S. TelePacific Corp. are true, complete, and correct to the best of my knowledge and are made in good faith. I declare under penalty of perjury that the foregoing is true and correct.

Pac-West Telecomm, Inc.

By: Robert C. Morrison

Name: Robert C. Morrison

Title: Vice President and General Counsel

Date: December 28, 2004

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ORIGINAL

CERTIFICATION OF TRANSFEREE

I hereby certify that the statements in the foregoing application on behalf of U.S. TelePacific Corp. for authority to acquire control over specified assets of Pac-West Telecomm, Inc. are true, complete, and correct to the best of my knowledge and are made in good faith. I declare under penalty of perjury that the foregoing is true and correct.

U.S. TelePacific Corp.

By: 

Name: Erich Everbach

Title: Secretary and General Counsel

Date: December 27, 2004

ORIGINAL

ATTACHMENT ASECTION 63.04 INFORMATION

Information addressing the requirements set forth in Commission Rule 63.04(a)(6)-(12) is as follows:

(a)(6) A description of the transaction is set forth above in section I of this application.

(a)(7) Pac-West is currently one of the largest competitive local exchange carriers headquartered in California, and also has operations in Nevada, Washington, Arizona, and Oregon. Pac-West provides a variety of local exchange, exchange access, and interexchange competitive telecommunications services with a primary focus on the provision of alternative network options for other communications service providers, including wide area call completion capability for dial-up Internet service providers. All of Pac-West's services are competitive and neither Pac-West nor any affiliate holds a dominant position in any market.

TelePacific provides business communications services, including local, long distance, data, and Internet services to small-to-medium sized businesses in Nevada and California. With thousands of customers, TelePacific is one of the largest telecommunications companies headquartered in California. All of TelePacific's services are competitive and neither TelePacific nor any affiliate holds a dominant position in any market.

(a)(8) This application is eligible for streamlining because, immediately following the transaction: (1) the Joint Applicants and their affiliates (as defined in Section 3(1) of the Communications Act, "Affiliates") combined, will hold less than a ten percent (10%) share of the interstate interexchange market; (2) to the extent that the Joint Applicants or their Affiliates provide U.S. local exchange services or exchange access services, those services will be provided only in geographic areas served by a dominant local exchange carrier that is not a party